

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Anthony James Moore,)	
)	
Plaintiff,)	ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION
)	
vs.)	
)	
Leann K. Bertsch, Director of Corrections,)	
et al.)	
)	Case No. 1:05-cv-098
Defendants.)	
)	

Before the Court is the plaintiff's "Motion for order from relief of order Docket entry number 56 under rules Of Civil procedure 60," filed on April 17, 2007. Moore seeks reconsideration of this Court's "Order Denying Motion for Preliminary Injunction" dated April 12, 2007. See Docket No. 21.

The Federal Rules of Civil Procedure do not mention motions for reconsideration. Broadway v. Norris, 193 F.3d 987, 989 (8th Cir. 1999); see also Schoffstall v. Henderson, 223 F.3d 818, 827 (8th Cir. 2000). The Eighth Circuit has instructed that when a motion is directed at a non-final order, as is the case here, it should be construed as a Rule 60(b) motion. See Broadway, 193 F.3d 987, 989 ("By its terms, only Rule 60(b) encompasses a motion filed in response to an order.")

The United States Supreme Court has held that Rule 60(b) provides for "extraordinary relief which may be granted only upon an adequate showing of exceptional circumstances." United States v. Young, 806 F.2d 805, 806 (1987). A court has broad discretion in ruling on a Rule 60(b) motion. Sellers v. Mineta, 350 F.3d 706, 716 (8th Cir. 2003). The rule "authorizes relief based on certain enumerated circumstances (for example, fraud, changed conditions, and the like)." Broadway v. Norris, 193 F.3d 987, 990 (8th Cir. 1999). It is not a vehicle for reargument on the merits. Id. (denying

relief under Rule 60(b) when the movant “did nothing more than reargue, somewhat more fully, the merits of their claim . . .”).

The Court has carefully reviewed the pending motion and other pleadings and finds that there is no justification for granting a Rule 60(b) motion for relief from judgment or order. The plaintiff does little more than reargue the merits of his prior motion. Under such circumstances, relief under Rule 60(b) is unwarranted. The Plaintiff’s Motion for Reconsideration is **DENIED**. (Docket No. 59).

IT IS SO ORDERED.

Dated this 18th day of April, 2007.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court